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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

October 6, 2010

Re: Notice of *Ex Parte* Presentation

RE: Docket Nos. 07-52, 09-191

Dear Ms. Dortch,

This letter is to advise you, in accordance with Section 1.1206(b) of the Commission's rules, that on October 5, 2010, Chris Riley, Joel Kelsey, and Aparna Sridhar of Free Press met with Jean Ann Collins, Carol Simpson, William Kehoe, Richard Hovey, Matthew Warner, and Pat O'Brien of the Wireline Competition Bureau; Blaise Scinto, Steve Buenzow, Tim Hilfiger, and John Spencer of the Wireless Telecommunications Bureau; Walter Johnston of the Office of Engineering and Technology; and David Tannenbaum of the Office of General Counsel. We discussed issues related to the Commission's Notice of Proposed Rulemaking on Preserving the Open Internet, and in particular the subsequent further inquiry focused on specialized services and application of the proposed rules to mobile wireless broadband Internet access services.

The meeting focused on how best to protect the open Internet while permitting service providers to offer so-called "managed" or "specialized" services over the same network infrastructure. Consistent with our previous filings in the above dockets, we emphasized that the nature of "managed" services must be distinct from other services, including Internet access services, Title II voice services, and Title VI video services. Furthermore, such "managed" services should not be confused with attempts by service providers to engage in prioritization of content, applications, or categories of applications over the open Internet. Free Press reiterated our long-held position that the only acceptable form of prioritization over open Internet services is purely edge-driven prioritization, such as the prioritization used in many business services and protected through service level agreements, and that ISPs should not be permitted to choose on behalf of users what forms of traffic can or cannot be prioritized, in any fashion.

We remain unaware of any distinct "managed" or "specialized" services in the current market, apart from hypothetical examples related to telemedicine or services such as AT&T's U-Verse that clearly fit within existing regulatory categories. Furthermore, we believe that under the current legal framework, any such services would not have been covered by the Commission's deregulatory orders regarding Internet access services, and therefore would be subject to the *Computer Inquiries* rules, which we believe would be appropriate safeguards in this space.

Nevertheless, should the Commission move forward with a new legal framework for these potential future services even in the absence of specific examples, we offered three goals to guide the Commission's short- and long-term frameworks for regulating such services. First, such services should not be duplicative of Internet access services, should not replicate functionality currently available on the open Internet, and should not thereby encourage a substantial migration of content and investment away from the open Internet, as such a shift would harm the numerous social and economic externalities associated with the open Internet. Rules to implement such a goal need not resolve *ex ante* all possible hair-splitting cases, but should provide clear guidance to service providers and clear authority for the Commission to promote investment and protect users of the open Internet. Second, network capacity for such services should not be provided on an exclusive or discriminatory basis to affiliates or partners of the network operator, but instead should be offered on a comparable basis under similar terms and conditions to all third party vendors. Finally, such services should not compromise the offering of a robust open Internet access service; the services should be logically or physically separated to avoid generating congestion on the open Internet access service, and the services should not further retard current trends of steady, albeit slow, growth in typical Internet access service speeds. Additionally, the Commission must ensure comprehensive disclosure of network management related not solely to the provision of open Internet access services, but also to any additional services that share infrastructure with open Internet access services.

Sincerely,

/s/ *Chris Riley*

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